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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
Case No. 1:16-CV-05439-JPO

-----)

GLEN CRAIG,

Plaintiff,

vs.

UNIVERSAL MUSIC GROUP, INC.,
KINGSID VENTURES, LTD., and ESTATE
OF RILEY B. KING,

Defendants.

-----)

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TELEPHONIC DEPOSITION OF RYAN NULL

New York, New York

April 21, 2017

Reported by:

Linda Salzman, RPR

Job No. 18495

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April 21, 2017
12:00 p.m.

Telephonic Deposition of RYAN
NULL, the witness herein, held at
the offices of Universal Music
Group, 1755 Broadway, New York, New
York, pursuant to Notice, before
Linda Salzman, a Notary Public of
the State of New York.

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STIPULATIONS

IT IS HEREBY STIPULATED AND
AGREED by and among counsel for the
respective parties hereto, that the
sealing and certification of the
within deposition shall be and the
same are hereby waived;

IT IS FURTHER STIPULATED AND
AGREED all objections, except as to
the form of the question, shall be
reserved to the time of the trial;

IT IS FURTHER STIPULATED AND
AGREED that the within deposition may
be signed before any Notary Public
with the same force and effect as if
signed and sworn to before the Court.

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A P P E A R A N C E S:

On Behalf of Plaintiff:

LIEBOWITZ LAW FIRM, PLLC
11 Sunrise Plaza, Suite 305
Valley Stream, New York 11580
(516) 233-1660

BY: KATE TSYVKIN, ESQ.

kt@liebowitzlawfirm.com

RICHARD LIEBOWITZ, ESQ.

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On Behalf of Defendants:

LOEB & LOEB LLP
345 Park Avenue
New York, New York 10154
(212) 407-4953

BY: LINNA CHEN, ESQ.

lchen@loeb.com

Also Present:

CARLA MILLER, ESQ.
Universal Music Group

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RYAN NULL,

called as a witness, having been duly
sworn by a Notary Public, was examined
and testified as follows:

EXAMINATION BY

MS. TSYVKIN:

Q. Good morning, Mr. Null. Thank
you for being here and making time for us.

A. You're welcome.

Q. My name is Kate Tsyvkin. I
represent the plaintiff in this lawsuit,
Glen Craig.

I wanted to go over some ground
rules with you, just to let you know what
we'll be doing today. I'm going to be
asking you some questions about the
matters involving this case and some
general questions as well. If you are
having trouble understanding my question,
just let me know and maybe I will rephrase
it.

Just answer, please, to the best
ability that you have as far as
recollections, you know, just answer to

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where there's one photo. Or it could be something more expensive with a lengthier booklet that would require more pages to fill, so could potentially use more photos.

Q. So it's not that you are preparing a lot of different photographs for someone to choose from. You're just saying depending on the size of the project, you would research as few photos or as many photos as that project necessitates?

A. A smaller project would require less photos generally, but we would research as many as we need to until we find the correct photo that's appropriate or the correct creative choice that the art director or the designer or anyone else would approve to be used from a creative standpoint.

If we're researching and researching and we're just finding photos we don't care for, we will keep going until we find something that is

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the past that was, I don't know, came out in the past and now we're reissuing it. Straight reissue, meaning we're not changing the artwork or the music. We may just be putting out on CD instead of another format or digitally instead of a prior format.

Whereas opposed to a new compilation, which would require new art and is a unique track listing, basically a completely new collection.

Q. So reissuing where it's just different in the format you mentioned, so something that's for the first time is being released as a CD or sometimes you need it digitally remastered, something like that, you call that a straight reissuing; is that correct?

A. That's correct.

Q. And then if something is like a new compilation with new music track -- what is it called, track lists, is that the correct form?

A. Yes, new track list. New

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satisfactory for our needs.

Q. Can you talk a little about those needs, some of the factors that go into your consideration of choosing a photograph?

A. First we want to make sure that it's the correct time period. It should be flattering photos of the artist. The cover is, of course, if there's a cover as opposed to interior photos, we really are careful about what we choose for a cover.

It really needs to be -- we're more concerned with the cover, let's say, than what shows up inside. They all need to be good photos but you need to have a good cover.

Q. Can you tell us how those considerations change if you're doing a reissue of an album?

MS. CHEN: Object.

A. A reissue, well, I guess there's two distinctions from what we do. There's a straight reissue, which would be an album maybe that was from -- an album from

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sequence. New graphic design.

Q. Then that would be not a straight reissue, that would be something else? Is there a name for that?

A. Compilation.

Q. Can you think of any other kind of reissuing that isn't straight reissuing but something else is altered?

MS. CHEN: Object.

You can answer.

A. Okay. It could be a vintage album that was unreleased until this current date, like an album that was recorded back in the day, initially intended to be released at the time but for whatever reason wasn't released then, so we may release that now as, you know, a previously unreleased album.

And there may or may not have the been artwork designed for that originally. So we either have artwork that was intended for it originally, or if it didn't get to that point, we would be creating new art, but nevertheless it

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2 -- wherever the best photos are that we
3 can acquire.

4 Q. How would you say the process
5 with the compilation is different from the
6 process of the straight reissue?

7 A. The straight reissue just
8 requires research of the art, not
9 individual photos. Where the compilation,
10 from my part at least, is driven by photo
11 research as opposed to album art research.
12 Art that already existed. My photo
13 research for the compilations will
14 ultimately lead to a designer creating
15 art.

16 Q. Sir, can you talk about some of
17 the factors that you consider when
18 selecting the photographers in the photo
19 research for a compilation?

20 A. Needs to reflect the timeframe
21 of the music that's been selected for the
22 compilation. Photos that are flattering
23 of the artist. That's key. We want the
24 artist to look their best.

25 Q. Any other factors?

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2 that.

3 Q. Is it typical to use cover art
4 from one of the albums? Just to
5 elaborate, suppose a compilation has
6 different music tracks from different
7 albums, is it typical to use cover art
8 from one of the albums that go into making
9 a compilation?

10 MS. CHEN: Objection.

11 A. It is not uncommon on a
12 compilation to show somewhere inside some
13 sort of collage or montage of the artist's
14 discography. Their back catalogue
15 basically. All their albums. All their
16 previous albums. Front covers.

17 Q. But you're saying that would be
18 typical for, you said inside, so in the
19 booklet or the liner notes, something like
20 that, right?

21 A. Yeah, just showing in the liner
22 notes or internally, somewhere inside the
23 package to show the artist's history of
24 the other albums that were released by
25 Universal-owned companies.

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2 A. Budgetary possibly, depending on
3 how much money is available, that might
4 dictate whether we just stick with photos
5 that we own or whether we want to seek
6 photos from a license.

7 Q. And in compilations, you are no
8 longer required to use the artwork that
9 was previously used on any one of the
10 albums that go into a compilation, for
11 example, any previous artwork for the
12 particular artist?

13 You're not -- are you obligated
14 to use any of that artwork from before?

15 MS. CHEN: Objection.

16 A. Well, a compilation, a new
17 compilation artist is by nature not going
18 to use any original album artwork, because
19 a compilation is songs that are pulled
20 from all -- culled from all kinds of
21 previous albums or singles as chosen by
22 the producer of the package.

23 So by definition, it's going to
24 be some kind of new design of the art, of
25 art by a designer that will be hired to do

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2 Q. So if a cover -- if cover art
3 for an album was used again later on on a
4 compilation, would that be unusual?

5 MS. CHEN: Used again how?
6 BY MS. TSYVKIN:

7 Q. Used on the cover of a
8 compilation?

9 A. A compilation would have new
10 art. It wouldn't make sense to put an
11 artist's album from 20 years ago on the
12 cover of a new compilation. It would be
13 misleading. We wouldn't do that. I mean,
14 a consumer would see that and think it's
15 the album from the artist put out in, I
16 don't know, 1980.

17 But this is supposed to be
18 obvious that this is a new compilation put
19 together today with a new photo. It's got
20 a new title. This compilation is called
21 so-and-so's greatest hits. It wouldn't
22 make sense for us to put an album cover
23 from the past that is not reflected by
24 this new track listing as the new cover.

25 Does that make sense?

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2 Q. Yeah, that makes sense to me. I
3 guess my question is: If all a
4 compilation is is just a new arrangement
5 of possibly old tracks, my question is,
6 would it be usual or does it happen that
7 sometimes that new compilation will bear
8 the cover art of one of the old albums?

9 MS. CHEN: Objection.

10 BY MS. TSYVKIN:

11 Q. I guess that's what I'm asking.

12 MS. CHEN: I think we're talking
13 about different definitions of
14 compilation.

15 BY MS. TSYVKIN:

16 Q. I think what you said before is
17 compilation is, as opposed to a straight
18 reissue, any kind of an issuing of a new
19 differently ordered track list or anything
20 different about track lists; is that
21 correct?

22 A. Yeah, a compilation has a
23 completely different track list. It could
24 have twice as many songs as an album from
25 the past. It could be pulled from a whole

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2 have the same artwork be placed on the new
3 compilation. That wouldn't make much
4 sense to you?

5 A. No, it wouldn't.

6 Q. Let's go through the process of
7 the compilations. So we were talking
8 about how would you go through basically
9 the same steps as we discussed before.
10 You would do your photo research, you
11 would consider the factors, the timeframe
12 of the music, that the photograph is
13 flattering, budgetary constraints.

14 What would happen next?

15 A. After the photo research is
16 complete?

17 Q. Yes.

18 A. The art director would indicate
19 which designer he had chosen to design the
20 art for the compilations and send -- at
21 the appropriate time, send those elements
22 to the designer so they can start working
23 on the design.

24 Q. Can you just fill in the one
25 step in between? Do you report back to

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2 array of previous albums. The songs, sort
3 of cherry-picked.

4 Typically, it could be a
5 greatest hits package. So one album back
6 then might have had a couple of hits on it
7 or one, so they're pulling tracks from
8 here and there to make a -- that's sort of
9 the definition of a compilation, the songs
10 are pulled from various albums to make
11 this album.

12 Q. So that's how I understood it as
13 well. It just can be a different ordering
14 of track lists from the past in a new
15 compilation for this particular artist,
16 just different things from different
17 albums from before, correct?

18 A. Yeah. And completely newly
19 created artwork. Just like that track
20 listing is a newly created track listing
21 and sequence.

22 Q. So you're saying it wouldn't
23 much sense to have one of the old album
24 covers, even if that album contributed a
25 lot of the tracks to a new compilation to

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2 the art director with what you found in
3 your photo research?

4 A. Typically, he'll ask in a
5 meeting do we have photos yet. And he may
6 or may not want to see them before they go
7 to the designer.

8 But if I say yes, we have the
9 photos, at that time or at some other time
10 later he'll indicate who, which designer
11 to send those to.

12 Q. How does he decide whether to
13 see the photos you found or not to see
14 them?

15 MS. CHEN: How would he know
16 that? How would Ryan know that? How
17 would Ryan know what someone else
18 decides?

19 BY MS. TSYVKIN:

20 Q. I just want to know the
21 procedure, what are the factors that your
22 supervisor considers when he either wants
23 to see the photographs or doesn't want to
24 see the photographs?

25 MS. CHEN: Do you have knowledge

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2 because if this is the back cover -- it
3 looks like this is cropped. It may have
4 been the back cover of that same --
5 actually, at the bottom of that page, you
6 can see the notes that I made. I said
7 B.B. King -- on the bottom of GC0007,
8 there's a note there, I made notes, I see,
9 about each one of these releases.

10 Actually, starting with the body
11 of the e-mail on the previous page on 006,
12 are the results of my research. I put
13 little notes under each title to Mr. Craig
14 to tell him what I found out in my
15 research.

16 And that one you're referring to
17 on the top of 0007, if you look at the
18 bottom of that page I put a note there,
19 B.B. King and Friends. This title is not
20 a Universal release, so my memory is
21 serving me correctly on that.

22 Q. If we go back to the first page
23 of that e-mail, GC0006?

24 A. Yeah.

25 Q. So you said that you found four

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2 cover has been altered.

3 It does say Amazon.com
4 exclusive. It may have been altered
5 because of that. I'm just speculating now
6 but -- the one on the following page,
7 which is similar to it, that also says
8 Ladies and Gentlemen, Mr. B.B. King. That
9 one I am definitely familiar with.

10 But the one that says Amazon.com
11 exclusive, I can't really say I'm familiar
12 with that. It looks like the type on the
13 top is different, the B.B. King. Yeah, I
14 can't say unequivocally.

15 Q. So can we look at the one you
16 are familiar with on GC00013, which is
17 Ladies and Gentlemen, Mr. B.B. King?

18 A. Yeah.

19 Q. Can you tell us a little bit
20 more about your familiarity with this
21 artwork?

22 A. I believe that it was a package
23 that was manufactured by Universal in the
24 U.K. And it was imported into the United
25 States as far as I know, but it was

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2 albums that were in your product ordering
3 system, correct?

4 A. Correct.

5 Q. Of these four, you said you're
6 -- were you familiar with any one of them?

7 MS. CHEN: He just answered
8 that. He went through each of those
9 four and he said this one I worked on.
10 This one I worked on or didn't work
11 on. We just did that.

12 BY MS. TSYVKIN:

13 Q. Could we go to Plaintiff's
14 Exhibit 2, GC00012?

15 A. Okay.

16 Q. The top photograph, the B.B.
17 King, Ladies and Gentlemen, Mr. B.B. King
18 Amazon.com exclusive, does that look
19 familiar to you?

20 A. Somewhat. It looks like it's a
21 derivation of another artwork on here. It
22 looks like it's derived from another
23 package that I am familiar with that I had
24 seen that the U.K. did, which is on the
25 following page, but it looks like the

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2 produced and put together in the U.K. from
3 what I recall.

4 Q. Did you participate in that
5 process?

6 A. We supplied the U.K. with a
7 selection of photos, including the cover
8 photo. I don't recall how many photos,
9 though, but I believe that was included.

10 Q. When you say you supplied the
11 U.K. with a selection of photographs, who
12 supplied; was it you, was it Vartan?

13 A. It would have been myself at
14 Vartan's request. He had given me, from
15 what I recall, he said send photos to so
16 and so. I don't recall who. I know we
17 sent them a group of photos that we said
18 -- that wouldn't require licensing. We
19 wouldn't give them anything we thought was
20 going to be dangerous from -- we wanted to
21 give them things they could just use that
22 we felt we had rights to.

23 Q. You mentioned you felt you had
24 rights to. Who requested a submission of
25 photographs from the U.K.?

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2 A. I don't know that, or I don't
3 recall it. Requests likely would have
4 come to Vartan, and he would have
5 delegated it to me to pull photos and send
6 them to whoever that was.

7 Q. Do you recall what exactly
8 Vartan asked you to do? Did he ask you to
9 pull the photographs or make sure that you
10 could send them to the U.K.?

11 A. Pull, show him, send. I'm sure
12 it was all of the above.

13 Q. So was part of that assignment
14 from Vartan to make sure that whatever
15 photographs you send them, you have rights
16 to?

17 A. Yes. Correct.

18 Q. Do you know if Vartan e-mailed
19 you these instructions?

20 A. I don't know for sure. He very
21 well likely did.

22 Q. Are there any other e-mails with
23 instructions pertaining to this assignment
24 that you got from anyone else aside from
25 Vartan?

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2 in terms of my typical research, like for
3 our projects, I was basically just pulling
4 photos that had already been used before
5 that were scanned and already in our
6 files.

7 Q. So that process that you
8 described earlier, you didn't go through
9 that?

10 A. No, it wasn't as intense as
11 that. No, it wasn't as involved as that.

12 Q. Can you just elaborate a little
13 bit about what you did do? You said you
14 pulled these photographs. Can you
15 describe what that actually entails?

16 A. Well, going into our digital
17 files could be on a server that we have,
18 where we store images in our files, or if
19 they were backed up on some CDs that were
20 burned to store images. That's where we
21 store these digital files on some sort of
22 digital storage medium.

23 Q. Are they searchable? Can you
24 search for a particular artist?

25 A. We have them set up on our

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2 A. I don't think so, but I can't
3 recall for sure. I mean, he would be the
4 one that I would be reporting to. I would
5 only be doing something like this if he
6 directed it.

7 Q. And Vartan asked you
8 specifically to send a particular
9 photograph or send a few photographs to
10 the U.K. for this particular album?

11 A. More than one. Not just one
12 photo. I don't remember how many photos
13 but it was a selection. Probably more
14 than a few.

15 Q. Do you recall what you did to go
16 about sending these photographs to the
17 U.K.?

18 A. Photos were digital already. So
19 it would have been sent digitally. Not
20 physical photos. I'm sure whatever we
21 sent was already digitized.

22 Q. Did you do any research before
23 sending the photographs?

24 A. Pulling the photos, but it was
25 just -- it wasn't really research. It was

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2 server in folders by artist name. So you
3 wouldn't be doing a keyword search per se.
4 They're alphabetical, so you would know.
5 You could very easily find the B.B. King
6 folder or any artist you were looking for.

7 I mentioned also CDs where we
8 had backed up stuff on the CDs. We keep
9 an Excel sheet so we know what's on those,
10 and those you can search by keyword.
11 That's a much smaller selection. Most of
12 the stuff is on a very large server.

13 Q. Does B.B. King have anything on
14 the CDs, the backup CDs that you
15 mentioned?

16 A. Yes.

17 MS. CHEN: Can you read that
18 back?

19 (Record was read back by the
20 court reporter as follows:

21 "QUESTION: Does B.B. King have
22 anything on the CDs, the backup CDs
23 that you mentioned?

24 "ANSWER: Yes.")

25 BY MS. TSYVKIN:

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